



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

May 6, 2011

Mr. Phil Isenberg, Chair
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Dear Mr. Isenberg:

Comments Regarding Third Staff Draft Delta Plan

The Metropolitan Water District of Southern California (Metropolitan), after reviewing the Third Staff Draft Delta Plan (Draft Plan) of April 22, wishes to express its appreciation for the work the Delta Stewardship Council (Council) has done and highlight several areas of remaining concern we have with the Draft Plan's ability to achieve the co-equal goals of ecosystem restoration for the Delta and water supply reliability for California. Metropolitan has been participating in a comprehensive comment process with other water agencies and other key stakeholders and endorses the letters dated May 6, 2011 submitted by a coalition of statewide water and Delta interests and the State and Federal Contractors Water Agency. However, Metropolitan wishes to convey herein specific comments that could acutely impact our six-county service area and Delta action plans established by Metropolitan's Board of Directors.

1. Regional Water Self-Reliance. Metropolitan is concerned with the Council's proposal to deem future water operations in the Delta inconsistent with the Delta Plan if a "recipient region" fails to comply with "water sustainability" policies of the Council. The Draft Plan offers no definition of failure. It seeks to review local water rate structures and their role in promoting conservation; review a region's decisions with respect to meeting the 20 Percent By 2020 Legislation; and decide whether the region has complied with a new Council requirement to add elements to urban and agricultural water management plans. If the Council decides the region has not satisfied these new requirements, it proposes to impose the draconian penalty of summarily vetoing water operations actions as inconsistent. In Metropolitan's service area alone, there are more than 300 such local rate structures. There are approximately 120 urban water management plans as well. It is unworkable for the Delta Stewardship Council to collect and review all these documents as part of a process to examine future actions in the Delta itself. The regulatory approach put forth in the Draft Plan to promoting regional self-reliance simply will not work under

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the weight of the paperwork bureaucracy that it would create. Moreover, the Council's proposal to veto otherwise legitimate covered actions because it is not happy with decisions made at the local level on actions taken outside of the Delta is not authorized by the Delta Reform Act. The Council's consistency authority applies only to actions "occurring in whole or in part within the boundaries of the Delta or Suisun Marsh," and only if the action within that geographic area has a "significant adverse impact on achievement of one or both of the coequal goals." On this area, a reasonable and achievable first step would be to recommend that urban and agricultural management plans articulate how they plan to address the statewide policy of improving regional self-sufficiency. Such legislation to require this articulation is now pending before the Legislature, where it should be.

2. Water Transfers. Metropolitan is concerned that the economic impact in California of future drought cycles could be worsened by the Council intervening in the future water market. Water transfers already are often subject to the CEQA public environmental review process; the public approval process of the governing bodies of both selling and buying water agencies; and most undergo a thorough review process by one or more other state and federal agencies, including the California Department of Water Resources, the State Water Resources Control Board (SWRCB), and the fishery management agencies. The Draft Plan calls for an additional review of these transfers by the Council, and their rejection as being inconsistent with the Delta Plan if recipient regions "fail" in terms of water sustainability. Sellers, particularly farmers who need to make crop decisions, have a limited window to decide whether to engage in any transaction. An additional layer to the transaction process is a threat to these crucial transactions and a threat to improving water supply reliability for California. Metropolitan recommends that you remove this requirement in order to promote a more robust future water market rather than to discourage it with a new regulation.
3. Delta Flow Criteria. The Draft Plan includes a proposed policy regulation to alter the Bay-Delta Strategic Workplan of the SWRCB. The SWRCB has wisely decided to review water quality objectives relating to the operation of the State Water Project and Central Valley Project when the Bay Delta Conservation Plan (BDCP) is completed. BDCP will include a comprehensive package of new water operation criteria, flow regimes, habitat restoration and a strategy to address other stressors. Once the comprehensive nature of BDCP is known, SWRCB will be able to address the needs for water quality objectives and flow requirements in their proper context. The Public Policy Institute of California in December 2009 eloquently described the "California Water Myth" that "More Water Will Lead to Healthy Fish Populations." The package of habitat and water conveyance/operations improvements within BDCP will provide the SWRCB with the necessary context to make accurate, informed decisions on flow requirements and water quality objectives. Calls for SWRCB to make these decisions outside of this context poses a threat to achieving the co-equal goals and violates the Delta Reform Act's specific preservation of SWRCB's authority over water rights and water quality. Metropolitan

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encourages that you support and urge the SWRCB to expeditiously complete its existing Bay-Delta Strategic Workplan and incorporate its timetable and strategy as part of the Delta Plan.

4. Bay Delta Conservation Plan. The Delta Reform Act provided BDCP with a clear path to implementation by directing its insertion into the Delta Plan if it meets certain clear standards, such as its compliance with the Natural Communities Conservation Plan process. The Draft Plan asserts that "completion and full implementation of the BDCP is not equivalent to satisfying the Act." The Legislature's direction to include the BDCP into the Delta Plan was clearly intended to have real meaning, not an illusory one. Metropolitan recommends deletion of this passage and in its place to affirm that actions within BDCP, once they are in the Delta Plan, are consistent with the Delta Plan itself.
5. Future Water Contracts. Metropolitan supports transparent public processes, yet objects to the Draft Plan's efforts to specify a particular public process for "future contracts and agreements to export water from the Delta." The current proposal could lead to key water decisions being deemed inconsistent with the Delta Plan because of the Council's dissatisfaction with the process that led to a decision, not the substance of the decision itself. This should be more generally stated to call for compliance with relevant existing public processes without reference to a particular process.

Metropolitan has taken considerable strides in advancing regional self-sufficiency through an Integrated Resources Plan (IRP). It elevates conservation to Southern California's largest future "supply." If successfully implemented in conjunction with the other actions contemplated by the Delta reform legislation, Metropolitan's average-year water sales to its 26 Member Agencies will remain essentially flat for roughly half a century. But the completion of the Delta Plan, BDCP, and the Bay-Delta Strategic Workplan of the SWRCB are all crucial to meeting the IRP and should not be thrown into conflict by an overly expansive and regulatory Delta Plan. While changes are necessary to the Draft Plan, a valuable and effective planning document for the Delta is within reach. We look forward to working with you and your staff to create a workable, historic planning document.

Sincerely,



Jeffrey Kightlinger
General Manager

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